

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JUWAN EVRICK MITCHELL,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 21-942
)	
JOSEPH R. STEPMAN, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Juwan Evrick Mitchell filed this action without filing fee or a motion for leave to proceed in forma pauperis. This case was referred to Magistrate Judge Maureen P. Kelly in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D. Magistrate Judge Kelly issued a deficiency order on July 22, 2021. Mr. Mitchell submitted a motion to proceed in forma pauperis on September 10, 2021, however, said motion remained deficient. Magistrate Judge Kelly thus issued a second deficiency order on September 13, 2021. Mr. Mitchell having failed to respond to the second deficiency order, Magistrate Judge Kelly issued a Report and Recommendation on January 31, 2022, recommending that this action be dismissed without prejudice. In the Report, Magistrate Judge Kelly examined the six factors to be weighed when considering dismissal of a case as a sanction as set forth in Poulis v. State Farm Fire and Casualty Co., 747 F.2d 863 (3d Cir. 1984). Because five of the six factors weighed in favor of dismissal, the recommendation to dismiss without prejudice was issued.

Mr. Mitchell was given until February 17, 2022 to file Objections to the Report and recommendation. Mr. Mitchell has not filed Objections. After de novo review of the pleadings

and the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 22nd day of February 2022,

IT IS ORDERED as follows:

The Report and Recommendation (ECF No.10) filed on January 31, 2022, is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that this matter is dismissed without prejudice.

The Clerk is to mark each case closed.

IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the petitioner desires to appeal from this Order he must do so within thirty days by filing a notice of appeal as provided in Rule 3, Fed. R. App. P.

s/Marilyn J. Horan
Marilyn J. Horan
United States District Court Judge

cc: Juwan Mitchell, pro se
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